

OFFICE OF SURFACE MINING
Reclamation and Enforcement
WASHINGTON, D.C. 20240

OFFICIAL
FILE COPY

Brian W. Burnett
Callister, Duncan & Nebeker
Suite 800, Kennecott Building
Salt Lake City, UT 84133

Dear Mr. Burnett:

This is in response to the correspondence and other data you submitted regarding the applicability of reclamation fees to the coal waste material generated from the Sunnyside Mine wash plant, and burned in the waste-coal fired small power production facility operated by Sunnyside Cogeneration Associates (SCA).

According to the information you have provided, it is our understanding that:

- | | | |
|----|---|---------|
| 1. | the material was or is the by-product of the coal preparation process, and has been found by the Federal Energy Regulatory Commission (FERC) to have little or no commercial value; | DATE |
| | | OFFICE |
| 2. | FERC has certified the SCA operation as a waste burning facility and that certification remains valid; | SURNAME |
| | | DATE |
| 3. | the material is not processed to remove the residual coal from the aggregate material; and | waste |
| | | OFFICE |
| 4. | the material from the Sunnyside wash plant, which will be burned in the SCA facility, has no market value. | SURNAME |

Based on this and related information, we find that the waste material in question has no value and will not be subject to reclamation fees. We must emphasize, however, that this information is subject to review by our staff, and that you must notify us immediately if any of the conditions you cited or representations you made should change. In addition, this finding does not release or in any way circumscribe SCA's or related parties' responsibilities under Title V of the Surface Mining Control and Reclamation Act, and as specified in the permit issued by the Utah Department of Natural Resources.

OPTIONAL FORM 9B (7-90)

FAX TRANSMITTAL

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From

H. Austen

Dept./Agency

Agency HT / DOE / M

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Phone # 303 844 1400 x1466

Fax # _____

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Because SCA's refuse pile operation is permitted, it will still be necessary to report the tonnage used from the pile on the Coal Reclamation Fee Report (Form OSM-1) that is mailed to operators each calendar quarter. Should you have any questions on these matters, please contact Jane Gray (606-233-2808) or James Krawchyk (412-921-2676) of our audit staff.

Sincerely,

(signed) R. J. Ewing

Robert Ewing, Assistant Director
Finance and Accounting

bcc: OSM/Subject
OSM/Read (2)
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OSM/ADF&A Read
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